

October 18, 2004



Section 183
New wetland mitigation
agreements

rb

Sponsor: Dow Constantine

Proposed No.: 2004-0122

1 **AMENDMENT TO PROPOSED SUBSTITUTE ORDINANCE 2004-0122,**

2 **VERSION 2**

3 On page 190, after line 3982 insert:

4 "NEW SECTION. SECTION 183. There is hereby added to K.C.C. chapter
5 21A.24 a new section to read as follows:

6 **Wetlands – agreement to modify mitigation ratios.**

7 A. The department may enter into an agreement with an applicant to establish
8 mitigation ratios to compensate for the adverse impacts to wetlands of the applicant's
9 development proposals that differ from the ratios required by subsection 182.B of this
10 ordinance. The agreement shall require that the applicant:

11 1. Demonstrate with scientifically-valid data that the program implemented by
12 the applicant has achieved long-term success in reducing the risk of failure and temporal
13 loss of function of the applicant's wetland mitigation projects; and

14 2. Implement a scientifically rigorous mitigation, monitoring and adaptive
15 management program that includes the following elements:

16 a. a mitigation planning process that requires mitigation plans to be prepared and
17 signed by a qualified wetland specialist. The mitigation planning process shall use the
18 guidelines contained in Washington State Department of Ecology - U.S. Army Corps of

Engineers Publication 04-06-013b "Guidance on Wetland Mitigation in Washington State" or an alternative approach acceptable to the department;

b. construction oversight by a qualified wetland specialist;

c. post-construction monitoring and reporting by experienced and qualified personnel using scientifically rigorous and accepted methodologies to assess whether the mitigation has been installed and whether it meets the approved goals, objectives and performance standards identified in the mitigation plan;

d. ongoing mitigation site maintenance to facilitate the achievement of the approved goals, objectives and performance standards identified in the mitigation plan.

Maintenance includes, but not limited to, the removal and control of non-native vegetation, replacement of dead or dying planted vegetation and trash and debris removal;

e. financing or funding guarantees for the duration of the mitigation and monitoring program. At a minimum, funding guarantees must be in place until mitigation activities have met the established performance standards and have been approved by the department; and

f. an adaptive management program that requires the evaluation and adjustment of remedial actions contained within the contingency plan developed as part of the mitigation planning process.

B. The mitigation ratios established by the agreement authorized by this section shall be based on data prepared by the applicant regarding the effectiveness of past and ongoing mitigation projects implemented and monitored by the applicant. In establishing the mitigation ratios, the department shall consider:

42 1. The applicant's demonstrated success in meeting mitigation performance
43 standards for the different types of mitigation, such as re-establishment, creation,
44 rehabilitation, and enhancement; and

45 2. The hydrogeomorphic classification, such as slope, riverine, depressional and
46 tidal fringe, of the wetland.

47 C. The applicant may request coordinated review of the agreement with the
48 Washington state department of ecology and the United States army corp of engineers.

49
50 **Effect:** Creates a separate section for modifications of mitigation ratios and provides
51 guidance as to when such modifications are appropriate.